IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.1845 OF 2004

Rajendra Sadashiv Mhatre : Petitioner

V/s.

State of Maharashtra & Ors. : Respondents

...

Mr.R.K.Mendadkar for the petitioner.

Mr.C.R.Sonawane, Asstt. Govt. Pleader, for resp. nos.1 & 2.

Mr.G.S.Hegde for respondent nos.3 & 4.

...

CORAM : S.RADHAKRISHNAN & S.A.BOBDE, JJ.

October 26, 2004.

P.C.:

1. Heard the learned counsel for the parties.

2. This petition is companion to Writ Petition no.8493 of 2003 (Dattatray Ramchandra Shelke v. State of Maharashtra & Ors.), which was disposed of by another Division Bench of this Court (H.L.Gokhale & Smt.Nishita Mhatre,JJ.) by order dated 30.9.2004. As the facts involved in the present petition is almost identical to the facts in Writ

Petition no.8493 of 2003, the present petition can also be disposed of on the same lines.

3. The petitioner herein was selected for the post of Helper on 7.12.1994. The petitioner claimed that he belongs to Mahadeo Koli community which is a Scheduled Tribe. His claim was forwarded to the Scrutiny Committee for verification which invalidated it. As a result thereof, his services have been terminated with effect from 2.3.2002 and the same is under challenge.

4. Mr.Mendadkar for the petitioner submitted that the State Government has passed a Resolution on 15.6.1995 which permits as a special case such persons to be considered as belonging to the special backward class in the event they belong to any such other community. His submission is that the case of the petitioner is similar to the one of Maruti Jadhav whose Writ Petition no.422 of 1997 was decided on 15.1.2004 and Jay R. Dhope, whose Writ Petition no.1817 of 2004 was decided on 23.2.2004. In both these cases, the Court had considered the fact of selection which was prior to the date of the Resolution though the appointment order came to be passed subsequent to the Resolution. In both the cases, these factors have weighed on the Court to give the benefit of the Resolution

to the petitioners therein. The learned counsel submits that the case of the petitioner be considered on the same basis. Mr.Hegde, learned counsel for respondent nos.3 and 4, however, submits that the better course will be that the petitioner should represent to the Corporation pointing out all these facts as also his certificate belonging to the Koli community whereafter the Corporation will arrive at a proper decision.

5. In the present case, the petitioner is out of job from 2.3.2002. More than two-and-a-half years have gone since then. In the circumstances, we accept the suggestion made by Mr.Hegde that the petitioner will make a representation to the S.T. Corporation and we expect the Corporation to arrive at a decision in the light of the two judgements which have been referred to above.

6. Mr.Mendadkar states that the representation will be forwarded within two weeks from today. In such a case, the Corporation will take the necessary decision within eight weeks from the receipt of the representation.

7. The Writ Petition stands disposed of accordingly.

Sd/-

(S. RADHAKRISHNAN, J.)

Sd/-

(S.A. BOBDE, J.)